

Remarks

Prior to this communication, claims 1 – 5 and 7 – 23 were pending in the application. In the pending Office action, the Examiner finally rejected claims 1 – 5 and 7 – 23. In response, Applicant is submitting a Request for Continued Examination, and this preliminary amendment, amending claims 3, 4, 5, 8, 12, 17, 18, 19, 20, 21, and 22, canceling claims 1, 2, 6, 7, and 23, and adding claims 24 and 25. Claims 9, 10, 11, 13, 14, 15, and 16 are unchanged. Examination and reconsideration in view of the amendments and remarks contained herein are respectfully requested.

The Office rejected claims 3 – 21 under 35 U.S.C § 112 as failing to comply with the written description requirement. Particularly, the Office indicated the claims contain subject matter “which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art” that the inventor possessed the invention. More particularly, the Office indicated that the limitation “‘simultaneously viewed by multiple venue attendees at a venue’ . . . lacks proper written description support in the specification.” (Pending Action, Page 2.)

Applicant respectfully disagrees.

Page 6, lines 20 – 24 of the specification, reads as follows.

In one embodiment of the invention, a display board 40, such as a stadium TV, scoreboard, or the like can be used to display the communication channels of the vendors and the order station at the venue, general instructions on how to order products at the venue, a menu of the items available for purchase at the venue, and a price list of those items. (Page 6, lines 20 – 24 of the pending application.)

A display board such as a “stadium TV,” a “scoreboard,” and “the like” is inherently and specifically desired to be viewed by multiple venue attendees. Thus, the limitation “simultaneously viewed by multiple venue attendees at a venue” is supported by the specification. Claims 3 – 21 therefore have proper written description support in the specification. Applicant respectfully requests withdrawal of the rejection.

Claims 1, 2, and 23 stand rejected under 35 U.S.C § 103(a) as being unpatentable over U.S. Patent No. 6,754,636 (“Walker”).

Claims 1, 2, and 23 have been cancelled. Therefore, the rejection of these claims is now moot.

Claims 3 – 5, and 7 – 22 stand rejected under 35 U.S.C § 103(a) as being unpatentable over U.S. Patent No. 6,473,739 (“Showghi”) in view of Official Notice.

Amended claim 3 now requires, among other things, “a display board configured to receive a signal indicative of instructions to attendees on how to place an order via a wireless communication device, the display board configured to be simultaneously viewed by multiple venue attendees at the venue.” Showghi does not teach or suggest a display board that receives a signal indicative of instructions to attendees on how to place an order via a wireless communication device, and that can be simultaneously viewed by multiple venue attendees at the venue.

The Office asserted that “Showghi teaches a display board configured to display information and configured to be simultaneously viewed by multiple venue attendees at a venue (Figure 2, item “30”).” (Page 5 of Action.) The Office also asserted that Showghi teaches “at least one wireless communication device coupled to a computer device via the network, the at least one wireless communication device operable to generate an order for items available at the venue and transmit the order to the computer device (Figure 2, items “22”, “24”, and “26”; column 7, lines 34-56).” (Page 5 of Action.) Applicants respectfully disagree. Showghi discloses

hierarchical menus that are programmed into special remote ordering devices 10 [which] illustrate the variety of functions possible. The menus include a major item classification menu 34, a drink menu 36 and sub-menu 38, a control menu 40, a payment menu 42 and a verification menu 44. These menus are also transmittable through the FIG. 2 system for display on or announcement by conventional hand-held wireless devices 22, 24, 26 brought into the venue by patrons.

This system of menus, carried by or transmittable to the remote ordering devices, enables patrons to easily select any quantity and variety of items at any time while in the venue, order and pay for the items, all without moving from the patron's

seat. Also, orders may be placed from any location within the venue by a patron for delivery to the patron's seat. This contrasts with systems where orders are taken by order-taking personnel, such as wait staff, but only from the patron while the patron is seated.

(Column 5, lines 40 – 57, Showghi.) That is, Showghi discloses that the menu is displayed on hand-held devices 22, 24, 26, or special devices 10. The special devices 10 are nothing more than hand-held devices that an attendee can obtain at the venue rather than a privately owned cell phone, PDA, or the like. (Col. 1, lines 5 – 10 and lines 37 – 43, Showghi.) (Note, the screens on such devices are sized and shaped for viewing by a single person).

The Office also refers to item 30, but this item is a “telecommunications service provider” (Figure 2, item 30), an “Internet Service Provider Web Site Host Server” (also Figure 2, item 30), or “service providers” (column 4, line 56). Item 30 is not a display board, as claimed. Accordingly, Showghi does not teach or suggest a display board that can be “simultaneously viewed by multiple venue attendees at the venue,” as required by amended claim 3.

The Office’s misstep in analysis can be better understood by consideration of the following. As noted, Showghi discloses that menus and other order information are hierarchical. Therefore, while a submenu 38 is displayed on one of the hand-held devices 22, 24, 26, or the special devices 10, another major item classification menu 34 is displayed on another one of the hand-held devices 22, 24, 26, or the special devices 10. The hand-held devices 22, 24, 26, or the special devices 10 are thus displaying different menus and other order information to different attendees. In other words, the same menu and other order information are not viewed by multiple attendees, but rather by each individual using the hand-held device he or she possesses (whether privately owned or obtained at the venue). The claimed display board requires the display board be “simultaneously viewed by multiple venue attendees at the venue.” This simply does not occur in the system disclosed by Showghi. Therefore, the claimed subject matter is not taught or suggested by Showghi.

In addition to the above, the Office noted that Showghi fails to disclose the following limitations.

1. A venue computer configured to generate instruction to be displayed on the display board. (Page 5, Action.)
2. A computer device, which the wireless device is connected to, that is the first computer device. (Page 5, Action.)
3. Displaying instructions on the display board for ordering via a wireless device. (Page 6, Action.)
4. A database of the first computer that includes a user's seating location at the venue. (Page 6, Action.)
5. Establishing an account prior to arriving at the venue. (Page 6, Action.)

However, the Office asserted that these missing limitations were not "functionally or structurally involved in the steps or elements of the recited method and system. . . . [And, therefore,] do not distinguish the claimed invention from the prior art in terms of patentability." (Page 6, Action.)

Amended claim 3 now includes limitations that are functionally or structurally involved in the steps or elements of the recited subject matter. For example, amended claim 3 requires, among other things, a display board that is "configured to receive a signal indicative of instructions to attendees on how to place an order via a wireless communication device," and "a venue computer device configured to be coupled to the first computer device via a network and to the display board, the venue computer configured to generate a signal indicative of instructions to attendees on how to place an order via the at least one wireless communication device." As a result, the Office's rejection of the claims has been overcome. The Office indicated that Showghi does not teach or suggest these limitations, and these limitations are now functionally or structurally involved in the claim elements. Accordingly, claim 3 is allowable.

Claims 4, 5, and 8 – 16 depend from amended claim 3 and are allowable for at least the same reasons that amended claim 3 is allowable. Accordingly, the rejection of claims 4, 5 and 8 – 16 should be withdrawn.

Amended independent claim 17 has been amended in a manner that is similar to the way in which claim 3 has been amended. Claim 17 now requires a display board that is “configured to receive a signal indicative of instructions to attendees on how to place an order via a wireless communication device,” and that is also “configured to be simultaneously viewed by multiple venue attendees at the venue.”

Similar rationale applies to Claim 22. Amended independent claim 22 requires “creating an order via a wireless communication device based on a signal indicative of instructions to attendees on how to place an order received by a display board and displayed on the display board.” For the reasons discussed above, amended independent claims 17 and 22 contain patentable subject matter and, therefore, are allowable.

Claims 18 – 21 depend from amended claim 17 and are allowable for at least the same reasons that amended claim 17 is allowable.

New claim 24 has been added. Among other things, claim 24 requires “establishing an account on site prior to arriving at the venue,” and “providing ordering information to venue attendees on a display board associated with the venue, the display board being configured to receive a signal indicative of instructions on how to place an order via a wireless communication device, and to be simultaneously viewed by multiple attendees.” The Office has admitted that these limitations are not shown in the cited art. Therefore, claim 24 is allowable. New claim 25 depends on claim 24 and is allowable at least for the same reasons claim 24 is allowable.

CONCLUSION

In view of the above, entry of the amendment and allowance of pending claims 3 – 5, 8 – 22, and new claims 24 and 25 are requested. Examination and reconsideration in view of the amendments and remarks contained herein are also respectfully requested. The undersigned is available for telephone consultation.

Respectfully submitted,



Derek C. Stettner
Reg. No. 37,945

Docket No.: 078260-9006-00
Michael Best & Friedrich LLP
100 East Wisconsin Avenue
Milwaukee, Wisconsin 53202-4108

(414) 271-6560
X:\clientb\078260\9006\A1315655.5